

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

In the Matter of the Search of:

INFORMATION ASSOCIATED WITH FACEBOOK
USER IDENTIFICATION NUMBER 100029189898320
ANGEL RODRIGUEZ, STORED BY PREMISES
CONTROLLED BY FACEBOOK, INC., OF MENLO
PARK, CALIFORNIA

Case No. 19-M-016

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

See Attachment A

located in the Eastern District of Wisconsin, there is now concealed:

See Attachment B

The basis for the search under Fed. R. Crim P. 41(c) is:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of: 21U.S.C. 841(a)(1) and 846

The application is based on these facts: See attached affidavit.

- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Sworn to before me and signed in my presence:

Date: Jan. 16, 2019

City and State: Milwaukee, Wisconsin

Steven Wehr

Applicant's signature

Special Agent Steven Wehr, DEA

Printed Name and Title

David E. Jones

Judge's signature

Honorable David E. Jones

, U.S. Magistrate Judge

Printed Name and Title

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the Facebook user ID FACEBOOK
USER ID#:100029189898320 ANGEL RODRIGUEZ that is stored at premises owned,
maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park,
California.

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. ("Facebook"), regardless of whether such information is located within or outside of the United States, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities from 03-01-2018 to the current date;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them 03-01-2018 to the current date, including Exchangeable Image File ("EXIF") data and any other metadata associated with those photos and videos;
- (d) All profile information; News Feed information; status updates; videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification

numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications;

- (e) All records or other information regarding the devices and internet browsers associated with, or used in connection with, that user ID, including the hardware model, operating system version, unique device identifiers, mobile network information, and user agent string;
- (f) All other records and contents of communications and messages made or received by the user 03-01-2018 to the current date including all Messenger activity, private messages, chat history, video and voice calling history, and pending “Friend” requests;
- (g) All “check ins” and other location information;
- (h) All IP logs, including all records of the IP addresses that logged into the account;
- (i) All records of the account’s usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user has “liked”;
- (j) All information about the Facebook pages that the account is or was a “fan” of;
- (k) All past and present lists of friends created by the account;
- (l) All records of Facebook searches performed by the account from 03-01-2018 to the current date
- (m) All information about the user’s access and use of Facebook Marketplace;
- (n) The types of service utilized by the user;

- (o) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (p) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (q) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

Facebook is hereby ordered to disclose the above information to the government within 14 days of service of this warrant.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of Title 21, United States Code, Sections 841(a)(1) and 846 involving Jose ARIAS since March 1, 2018 including, for each user ID identified on Attachment A, information pertaining to the following matters:

- (a) The sale and distribution of illegal drugs, and the laundering / concealment of financial proceeds associated with drug trafficking;
- (b) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner;
- (c) Evidence indicating the Facebook account owner's state of mind as it relates to the crime under investigation;
- (d) The identity of the person(s) who created or used the user ID, including records that help reveal the whereabouts of such person(s).

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Steven Wehr, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

2. I am a Special Agent (SA) with the Drug Enforcement Administration (DEA) in Milwaukee, Wisconsin, and have been employed as a Special Agent since 2003. Prior to my employment as a Special Agent, I was a police officer with the City of West Allis for approximately six and a half years. I have received extensive training in the field of narcotics and related crimes. In addition, I have attended training in reference to internet crimes. My present duties require me to investigate violations of Title 21, United States Code, Sections 841(a)(1) and 846, which are violations of the Federal Controlled Substances Act. Through my training and experience, I am familiar with the ways and means of narcotics trafficking in the United States, and outside the United States. All the information contained in this affidavit is based on my personal observations and investigation or has been related to me by other members of the law enforcement community or citizen witnesses, all of whom I believe to be truthful and reliable.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 21, United States Code, Sections 841(a)(1) and 846 have been committed by suspect whose name is known to investigators as Jose ARIAS. There is also probable cause to search the information described in Attachment A for evidence of these crimes and contraband or fruits of these crimes, as described in Attachment B.

PROBABLE CAUSE

5. In Spring 2018, DEA SA Daniel Schmidt from Indianapolis DEA received information from a source of information (SOI) that a person, using the Facebook name of Angel MORALES, was trafficking in large amounts of methamphetamine. The SOI communicated with MORALES through Facebook. MORALES primarily spoke Spanish and very little English. The SOI subsequently introduced SA Schmidt as a drug trafficker. SA Schmidt and MORALES negotiated the purchase of crystal methamphetamine, however, MORALES related he wanted SA Schmidt to travel to Wisconsin. Given that MORALES wanted to use a location in the state of Wisconsin, for drug trafficking purposes, investigators decided to introduce an agent from Milwaukee DEA. SA Schmidt subsequently introduced SA Wehr as a drug trafficker as he was assigned to the Milwaukee DEA. SA Wehr subsequently met with members of the drug trafficking organization (DTO) from the Milwaukee area. SA Wehr met with Joel SALINAS-NATAL, Gretchen ORRIOLS-MONTERO, Felix ALOMAR-COTTO, and

Beidangelys BERMUDEZ-RODRIGUEZ to purchase controlled substances. The meetings typically occurred within Milwaukee County. SA Wehr, while acting in an undercover capacity, made the following purchases of controlled substances from this DTO:

- 04-19-2018, purchased approximately 85.4 gross grams of suspected crystal methamphetamine from ORRIOLS-MONTERO and SALINAS-NATAL;
- 05-02-2018, purchased approximately 116.7 gross grams of suspected crystal methamphetamine from SALINAS-NATAL;
- 05-30-2018, purchased approximately 256.56 gross grams of suspected crystal methamphetamine from SALINAS-NATAL;
- 06-06-2018, purchased approximately 250.95 gross grams of suspected crystal methamphetamine from SALINAS-NATAL;
- 06-29-2018, purchased approximately 302.30 gross grams of suspected heroin from ORRIOLS-MONTERO and SALINAS-NATAL;
- 07-19-2018, purchased approximately 476.6 gross grams of suspected crystal methamphetamine from ALOMAR-COTTO;
- 08-09-2018, purchased approximately 62.4 gross grams of suspected heroin from BERMUDEZ-RODRIGUEZ

6. Gross grams refers to the weight of the controlled substances to include the packaging and the DEA evidence bag. The members of the DTO appear to work at the direction of an individual located in Mexico. Investigators believe SA Schmidt has previously negotiated drug deals with this Mexico-based individual and who utilizes the name "Angel REYES." Through the totality of the investigation, coupled with work from the DEA Mazatlán, Mexico office, "Angel REYES" was tentatively identified as Jose ARIAS, who resides in Mexico.

Investigators are working further to confirm ARIAS' identification, but for the purpose of this affidavit, your affiant will use the name of ARIAS as the suspected supplier based in Mexico. When SA Wehr negotiated the purchases of controlled substances, he frequently spoke with ARIAS by telephone. SA Wehr and ARIAS negotiated the amounts and types of controlled substances for purchase. In addition, SA Wehr and ARIAS discussed the price of the controlled substances and the date the transactions were to occur. On the date of the scheduled purchase of the controlled substance, a person from the DTO, other than ARIAS, would show up and conduct the narcotics transaction with SA Wehr in the Eastern District of Wisconsin (Milwaukee). The members of the DTO were working at the direction of ARIAS.

7. SA Wehr has had phone contact with ARIAS on numerous occasions. ARIAS last known phone number was 207-209-1699. SA Wehr negotiated potential drug transactions with ARIAS utilizing phone number 207-209-1699. These negotiations conducted by telephone were recorded.

8. On October 26, 2018, United States Magistrate Judge William Duffin authorized a pen register/trap and trace on phone number 207-209-1699. The pen register/trap and trace was subsequently activated.

9. On December 14, 2018, investigators interviewed a source of information (hereafter "SOI#2"). SOI#2 stated he was contacted by a male who indicated that he was Mexican and from California. SOI#2 stated he was contacted via Facebook messenger under the profile name "Angel RODRIGUEZ" to recruit SOI#2 for methamphetamine distribution. SOI#2 stated RODRIGUEZ demanded respect and RODRIGUEZ related he had the best quality in Wisconsin. SOI#2 stated RODRIGUEZ sent him a photo of a scale with over 500 grams of methamphetamine on it. SOI#2 stated he spoke with RODRIGUEZ on the phone and

RODRIGUEZ wanted SOI#2 to go to Milwaukee and meet RODRIGUEZ's guy. SOI#2 stated that after talking to his girlfriend, they decided against going to Milwaukee.

10. SOI#2 allowed investigators access to his Facebook messenger account and allowed investigators to take screen shot photos of the conversations. The conversations were consistent with what SOI#2 described occurred during the interview. On December 5, 2018 at approximately 3:56pm, there is a captured Facebook message from RODRIGUEZ to SOI#2, which states, "I have the best quality to do business in Wisconsin." Based on SOI#2's statements, and the totality of the circumstances, investigators believe RODRIGUEZ is referring to the quality of crystal methamphetamine. On December 6, 2018 at approximately 9:59am, SOI#2 responded to this Facebook message with a "thumbs up" emoji and a Facebook message that stated, "What you pushin homie? I can move anything." Shortly after SOI#2 sent that Facebook message, there was a Facebook message from RODRIGUEZ "delete the photo as soon as you look at it I'm Mexican I do not speak English I'm translating." The Facebook messenger image captured by investigators did not show the image with the scale and the methamphetamine. Investigators believe the photo RODRIGUEZ wanted SOI#2 to delete was the photo SOI#2 described as 500 grams of methamphetamine on a scale. On December 6, 2018 at approximately 4:49pm, RODRIGUEZ Facebook messaged to SOI#2 "I call you now" and "Is good." At 5:09pm, SOI#2 responded with the Facebook message "Now is good."

11. A good portion of the Facebook conversation between SOI#2 and RODRIGUEZ took place on December 6, 2018. On December 6, 2018, during the Facebook conversation, SOI#2 provided his phone number to RODRIGUEZ. SOI#2 and RODRIGUEZ agreed to communicate by telephone on December 6, 2018. The pen register on 207-209-1699, a phone used by ARIAS, showed three phone contacts between SOI#2 and ARIAS on December 6, 2018.

The three phone contacts between SOI#2 and ARIAS, and the date, suggest RODRIGUEZ is actually ARIAS. Investigator believe ARIAS is using the Facebook screen name of "Angel RODRIGUEZ" under Facebook User ID# 100029189898320 to mask his true identity.

12. When SA Wehr dealt with ARIAS, he used some of the same terminology as "RODRIGUEZ" used with SOI#2. On May 2, 2018, SA Wehr purchased approximately 116.7 gross grams of suspected crystal methamphetamine from SALINAS-NATAL. On May 2, 2018 at approximately 2:20pm, ARIAS texted SA Wehr "I like to be on time all the time ok quiet at the moment my friend comes to trust me I am a Mexican of respect." On December 6, 2018 at approximately 12:04pm, "RODRIGUEZ" sent a Facebook message to SOI#2 that stated "tell me at what time I can call you so that a friend can talk to me and see what we can do but I need loyalty and respect because I am a man of respect a Mexican right." These statements are similar in nature with their references to "respect" and "Mexican," and sound like they are coming from the same person. In addition, ARIAS wanted SOI#2 to travel to Milwaukee, and investigators know there are members of this DTO operating out of the Milwaukee and/or Milwaukee County area.

13. The investigation of this DTO includes detailed phone analysis, wire transfer breakdowns, the review of package deliveries through common couriers, interceptions of packages containing controlled substances, controlled purchases of narcotics, interviews with sources, surveillance, and other investigative techniques. Besides the sale of controlled substances in the Milwaukee area, the investigation indicated this DTO has conducted the delivery of controlled substances through common couriers (such as Fed-Ex) and has wired suspected drug proceeds from Wisconsin to Mexico.

14. Records show SALINAS-NATAL, ORRIOLS-MONTERO, and ALOMAR-COTTO have all made suspicious wire transfers of money to intended recipients in Mexico. These suspicious transfers are sometimes made shortly after a controlled purchase of narcotics by SA Wehr from a member of this DTO. In addition, members of this DTO, have made multiple monetary wire transfers in one day from different locations, which is a sign of structuring.

15. Records show suspicious packages coming to Wisconsin from out of state locations. On May 3, 2018 a suspicious United States Postal Package was intercepted that was going to an address that SALINAS-NATAL and ORRIOLS-MONTERO were utilizing located at 5126 North 50th Street, Milwaukee, Wisconsin. United States Magistrate Judge David E. Jones authorized a search warrant for the package (Case no. 18-M-58). Investigators located and seized approximately 995 gross grams of crystal methamphetamine from inside the package.

16. This DTO is multi-faceted in its command and control structure, suppliers, distributors, transporters, local cell leaders, money transferors/launders, etc. ARIAS is believed to reside in Mexico as part of the command and control structure. ARIAS controls members of the DTO located in Wisconsin. ARIAS has used Facebook to communicate and recruit potential members of the DTO.

17. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

18. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

19. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

20. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

21. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items

available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

22. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

23. Facebook users can exchange private messages on Facebook with other users. Those messages are stored by Facebook unless deleted by the user. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a chat feature that allows users to send and receive instant messages through Facebook Messenger. These chat communications are stored in the chat history for the account. Facebook also has Video and Voice Calling features, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

24. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

25. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

26. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

27. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

28. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

29. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

30. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a

Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

31. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

32. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access

their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

33. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

34. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B.

Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

35. Based on the forgoing, I request that the Court issue the proposed search warrant.

36. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

37. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

REQUEST FOR SEALING

38. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.